

The attached document was submitted to the **Washoe County Board of Commissioners** during the meeting

held on AUGUST 8, 2017

by KEN ALLEN

for Agenda Item No. 28

and included here pursuant to NRS 241.020(7) as amended by AB65 of the 2013 Legislative Session.

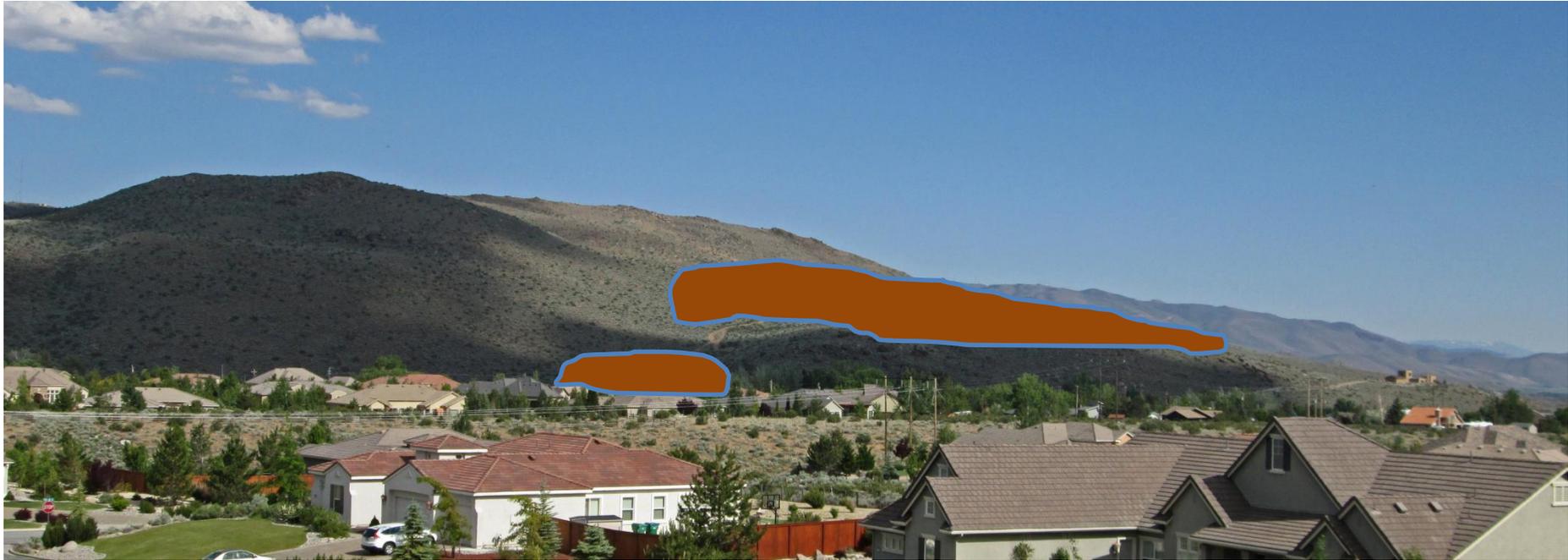
# Planning Commission Appeal Regarding Ascenté, 8/8/17

Allen, Wolgast, Loetscher, Mihevc,  
Hemlein, Lyles

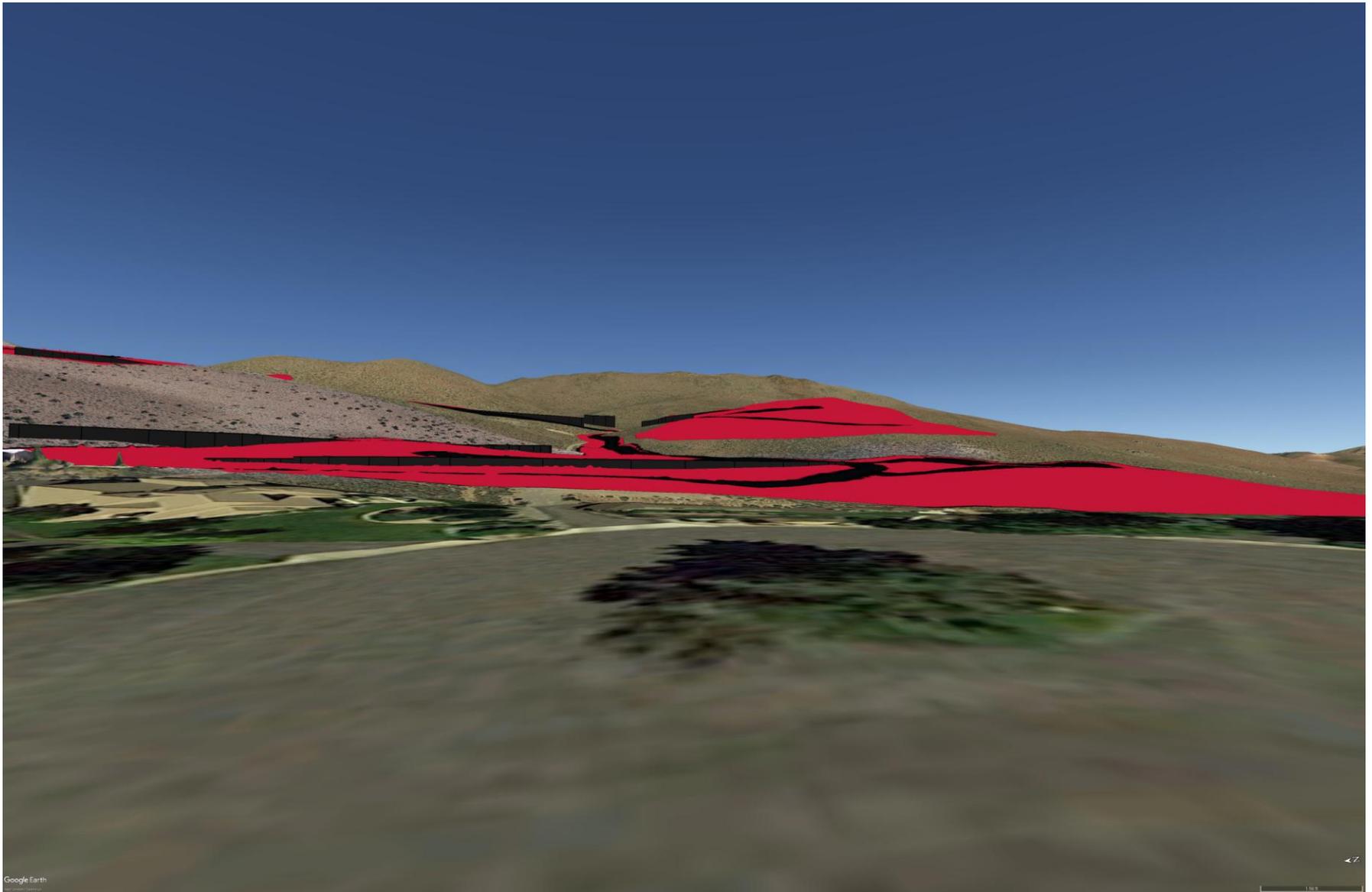
View of Steamboat Hills from Callahan Road



# View of Steamboat Hills from Callahan with Development



# View of Steamboat Hills from Crosscreek Road with Development

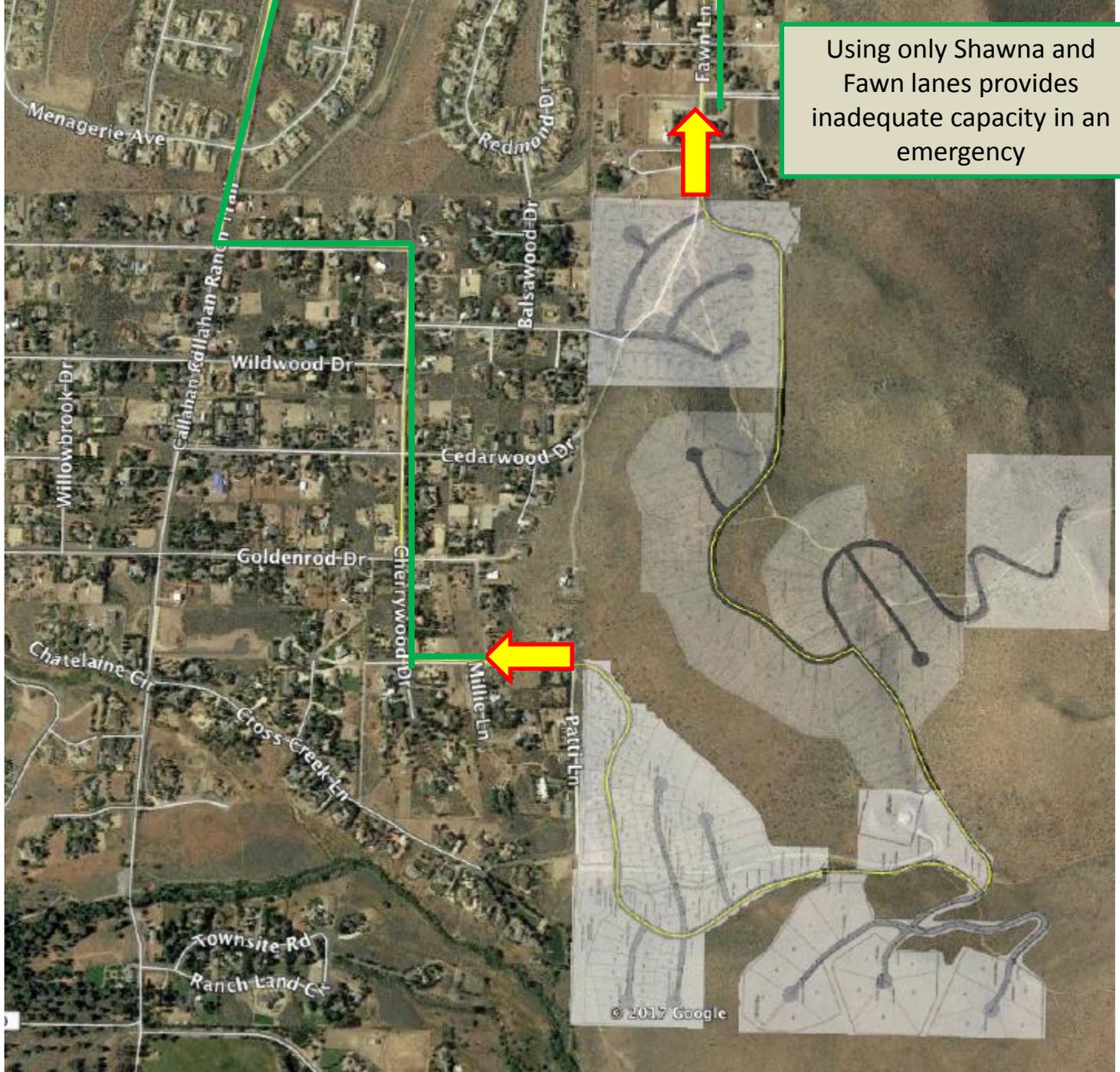


## **Applicable Planning Documents:**

- **Forest Area Plan (FAP September 2010)**
- **Mount Rose Scenic Byway**
- **Land Use and Transportation Element (LUT 2011)**
- **Matera Ridge Mixed Use Overlay District (MRMOUD 2010)**
- **Washoe County Development Code**

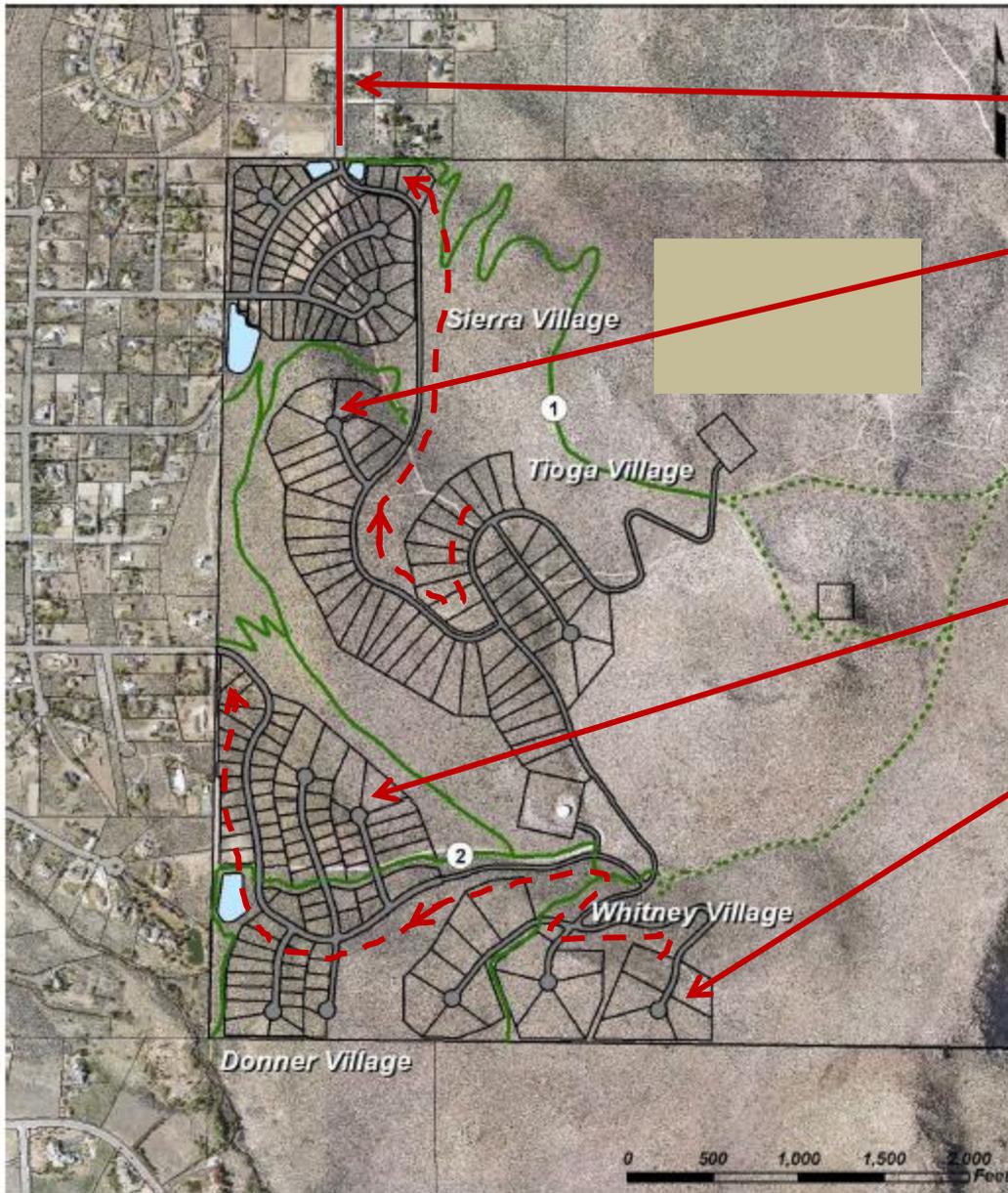
# Sagebrush Wildfire: Steamboat Hills





Using only Shawna and Fawn lanes provides inadequate capacity in an emergency

## Likely Evacuation Problems



**FAWN LANE WILL HAVE MANY HORSE TRAILERS EVACUATING**

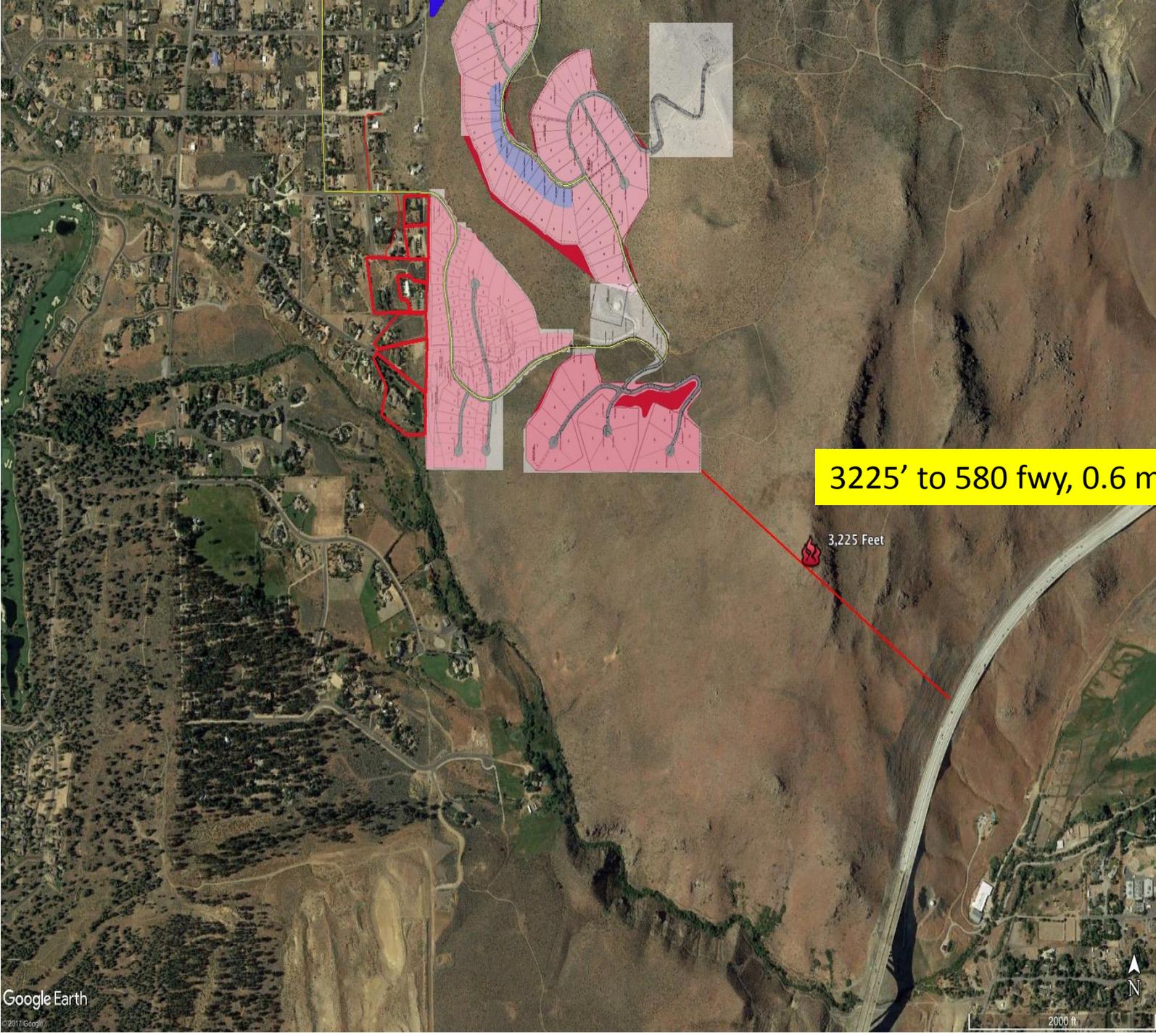
**HOW WILL RESIDENTS IN THIS CUL DE SAC EVACUATE?**

**FROM ALL SUBDIVISIONS, EVACUEES WILL HAVE HUNDREDS OF HOMES IN FRONT OF THEM**

**HOW WILL RESIDENTS IN THIS CUL DE SAC EVACUATE?**

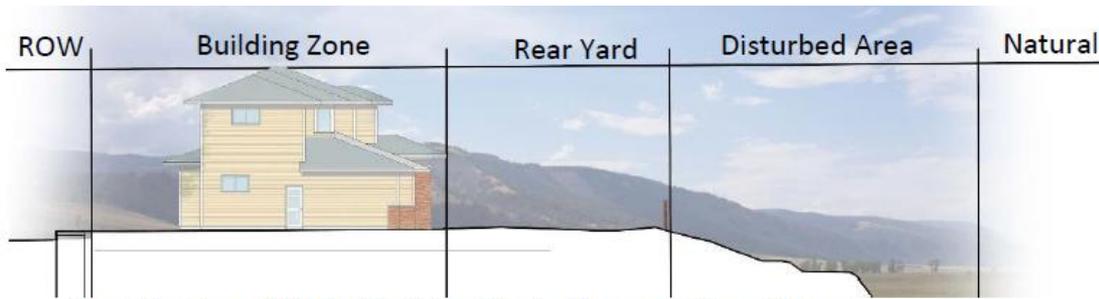
**HOW WILL RESIDENTS IN THIS CUL DE SAC EVACUATE?**

**THERE HAVE BEEN NO TRAVEL/TIME STUDIES TO INDICATE THE LEVEL OF RISK TO THE RESIDENTS.**

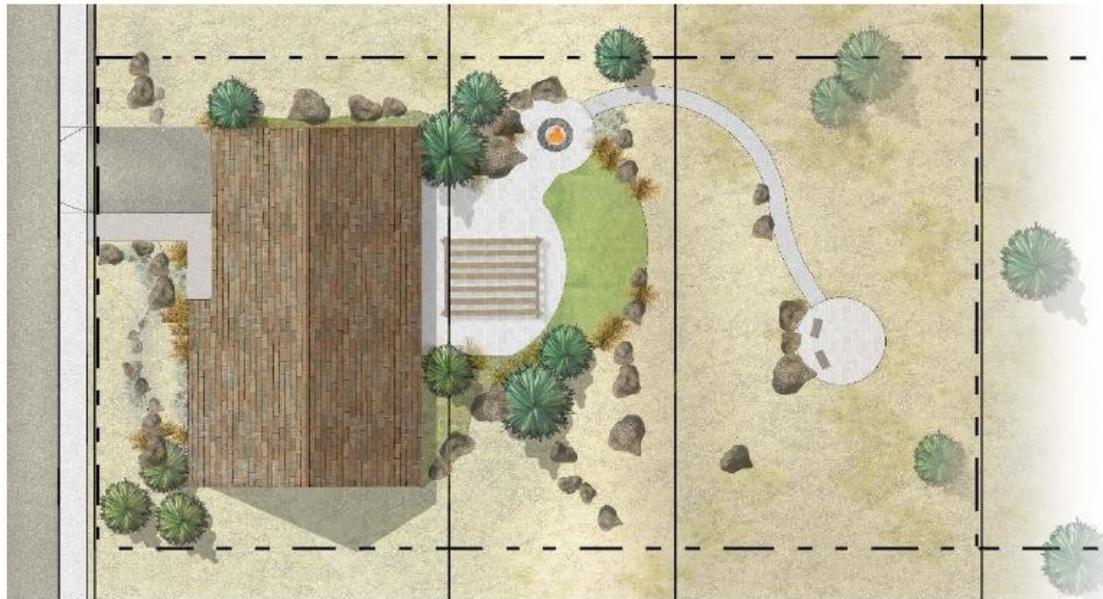


3225' to 580 fwy, 0.6 mile

3,225 Feet



Cross Section of Typical Lot That Backs Common Open Space



Plan View of Typical Lot That Backs Common Open Space

<p><b>BEST USES</b></p>	<p>Landscaped Front Yard Building Envelope Irrigation Privacy Fencing</p>	<p>Patios Gas Fire Pit Gathering Space Irrigation Landscaping</p>	<p>Seating Area Gas Fire Pit Native Revegetation Open Fencing Temporary Irrigation</p>	<p>No Improvements No Irrigation Property Line – Open Fencing</p>
<p><b>NOT ALLOWED</b></p>	<p>Non-Approved Landscaping Material (per CC&amp;R)</p>	<p>Structures Higher Than Residence</p>	<p>Any Structure (incl. Pergolas or Shade) Privacy Fencing Irrigation</p>	<p>No Use Allowed</p>

## FIRE PROTECTION REQUIREMENTS

SECTION 601  
GENERAL

**601.1 Scope.** The provisions of this chapter establish general requirements for new and existing buildings, structures and premises located within *wildland-urban interface areas*.

**601.2 Objective.** The objective of this chapter is to establish minimum requirements to mitigate the risk to life and property from wildland fire exposures, exposures from adjacent structures and to mitigate structure fires from spreading to wildland fuels.

SECTION 602  
AUTOMATIC SPRINKLER SYSTEMS

**602.1 General.** An *approved automatic sprinkler system* shall be installed in all occupancies in new buildings required to meet the requirements for Class 1 ignition-resistant construction in Chapter 5. The installation of the automatic sprinkler systems shall be in accordance with nationally recognized standards.

SECTION 603  
DEFENSIBLE SPACE

**603.1 Objective.** Provisions of this section are intended to modify the fuel load in areas adjacent to structures to create a *defensible space*.

**603.2 Fuel modification.** Buildings or structures, constructed in compliance with the conforming *defensible space* category of Table 503.1, shall comply with the *fuel modification* dis-

tances contained in Table 603.2. For all other purposes the *fuel modification* distance shall not be less than 30 feet (9144 mm) or to the lot line, whichever is less. Distances specified in Table 603.2 shall be measured on a horizontal plane from the perimeter or projection of the building or structure as shown in Figure 603.2. Distances specified in Table 603.2 are allowed to be increased by the code official because of a site-specific analysis based on local conditions and the fire protection plan.

TABLE 603.2  
REQUIRED DEFENSIBLE SPACE

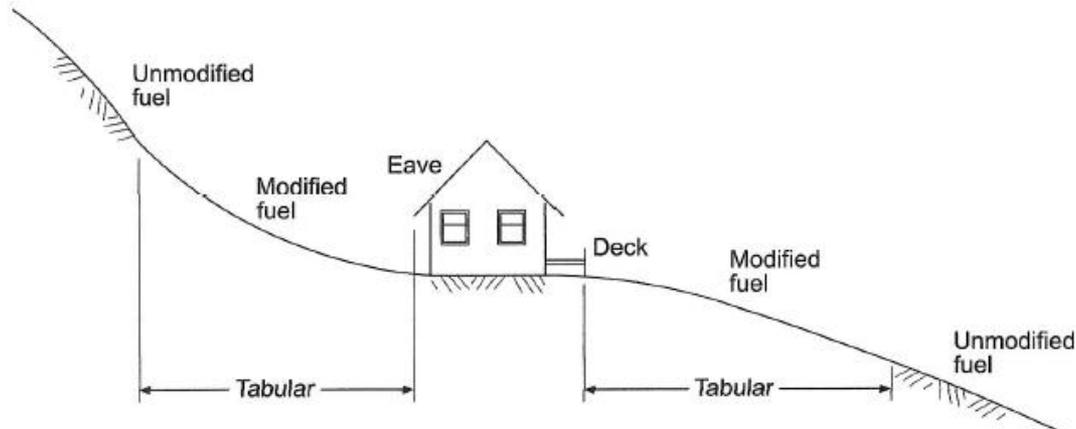
WILDLAND-URBAN INTERFACE AREA	FUEL MODIFICATION DISTANCE (feet) <sup>a</sup>
Moderate hazard	30
High hazard	50
Extreme hazard	100

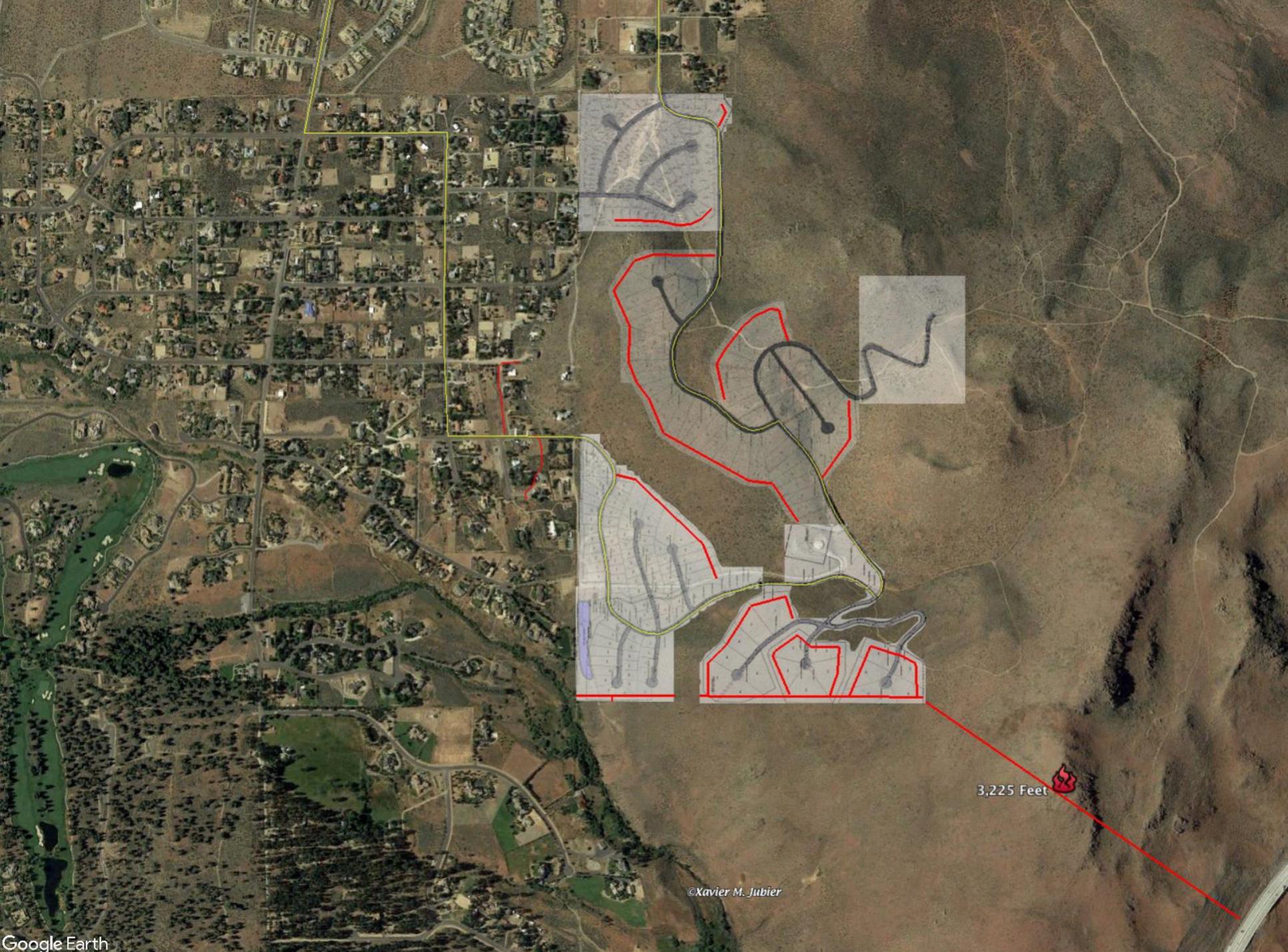
For SI: 1 foot = 304.8 mm.

a. Distances are allowed to be increased due to site-specific analysis based on local conditions and the fire protection plan.

**603.2.1 Responsible party.** Persons owning, leasing, controlling, operating or maintaining buildings or structures requiring defensible spaces are responsible for modifying or removing nonfire-resistive vegetation on the property owned, leased or controlled by said person.

**603.2.2 Trees.** Trees are allowed within the *defensible space*, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet (3048 mm).

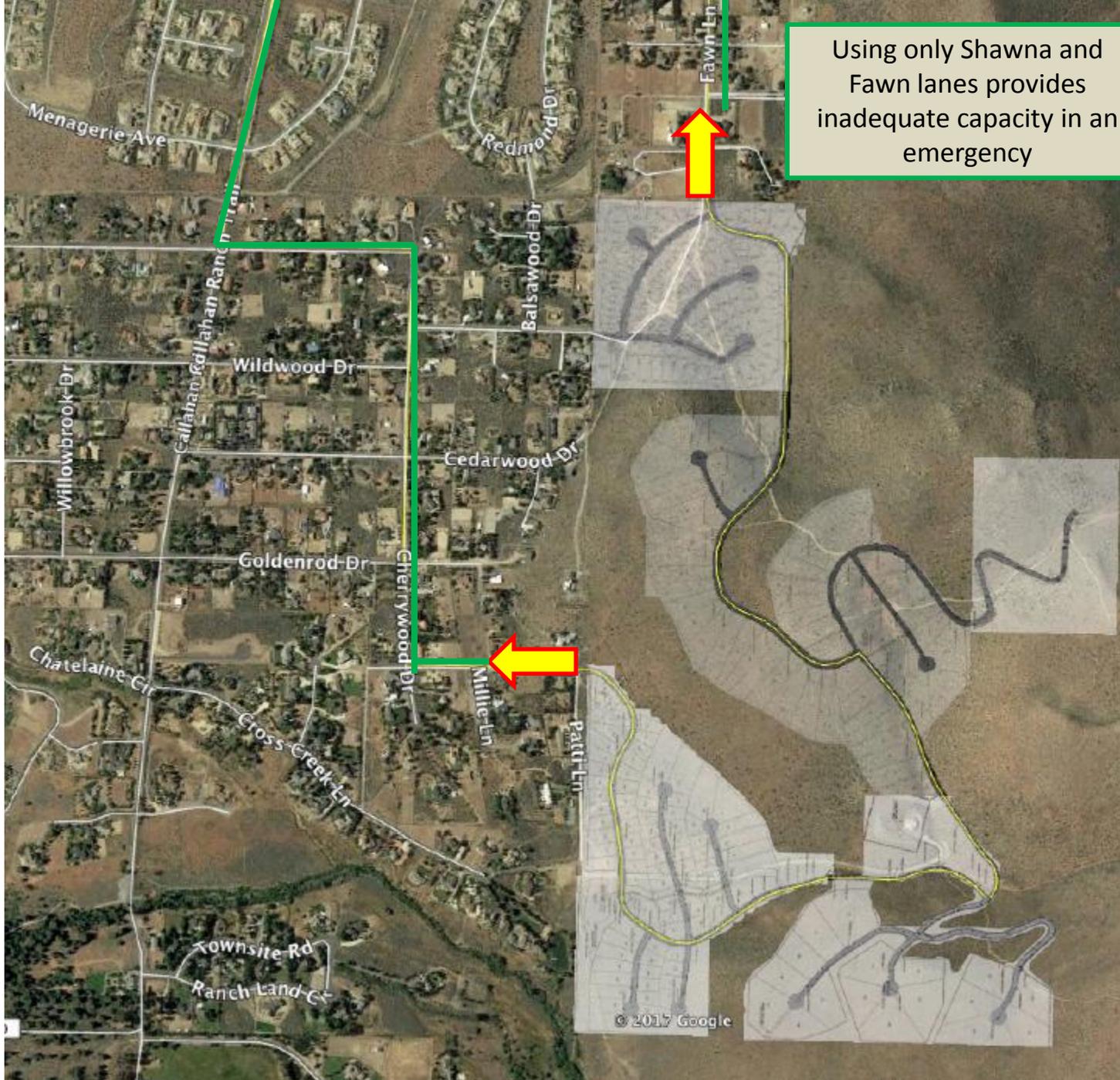
FIGURE 603.2  
MEASUREMENTS OF FUEL MODIFICATION DISTANCE



3,225 Feet



©Xavier M. Jubier

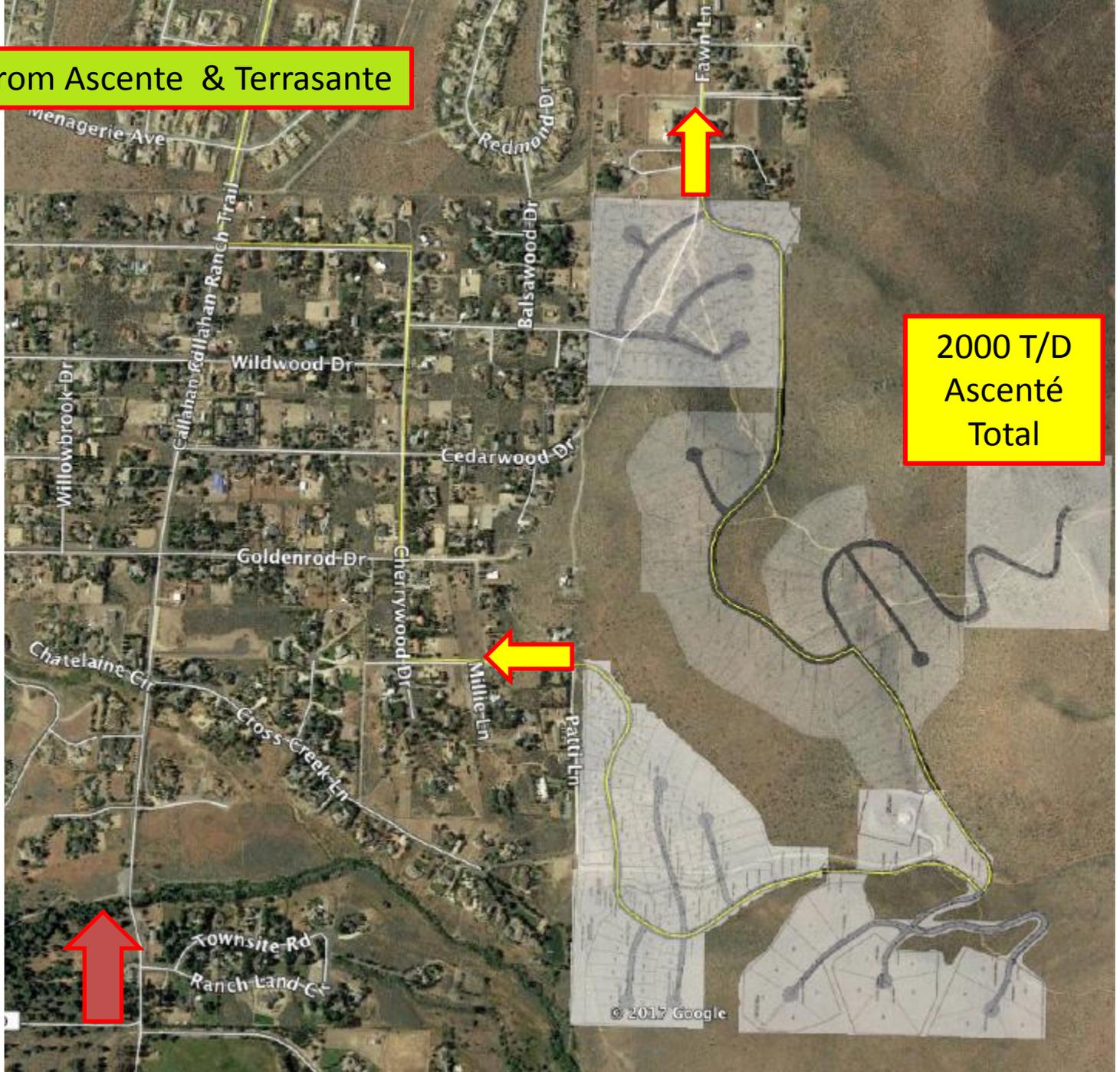


Using only Shawna and Fawn lanes provides inadequate capacity in an emergency

Additional traffic from Ascente & Terrasante

2000 T/D  
Ascenté  
Total

2000 T/D  
Terrasante





1 433T/D

2 3,787 T/D

3 514 T/D

4 199 T/D

5 168 T/D

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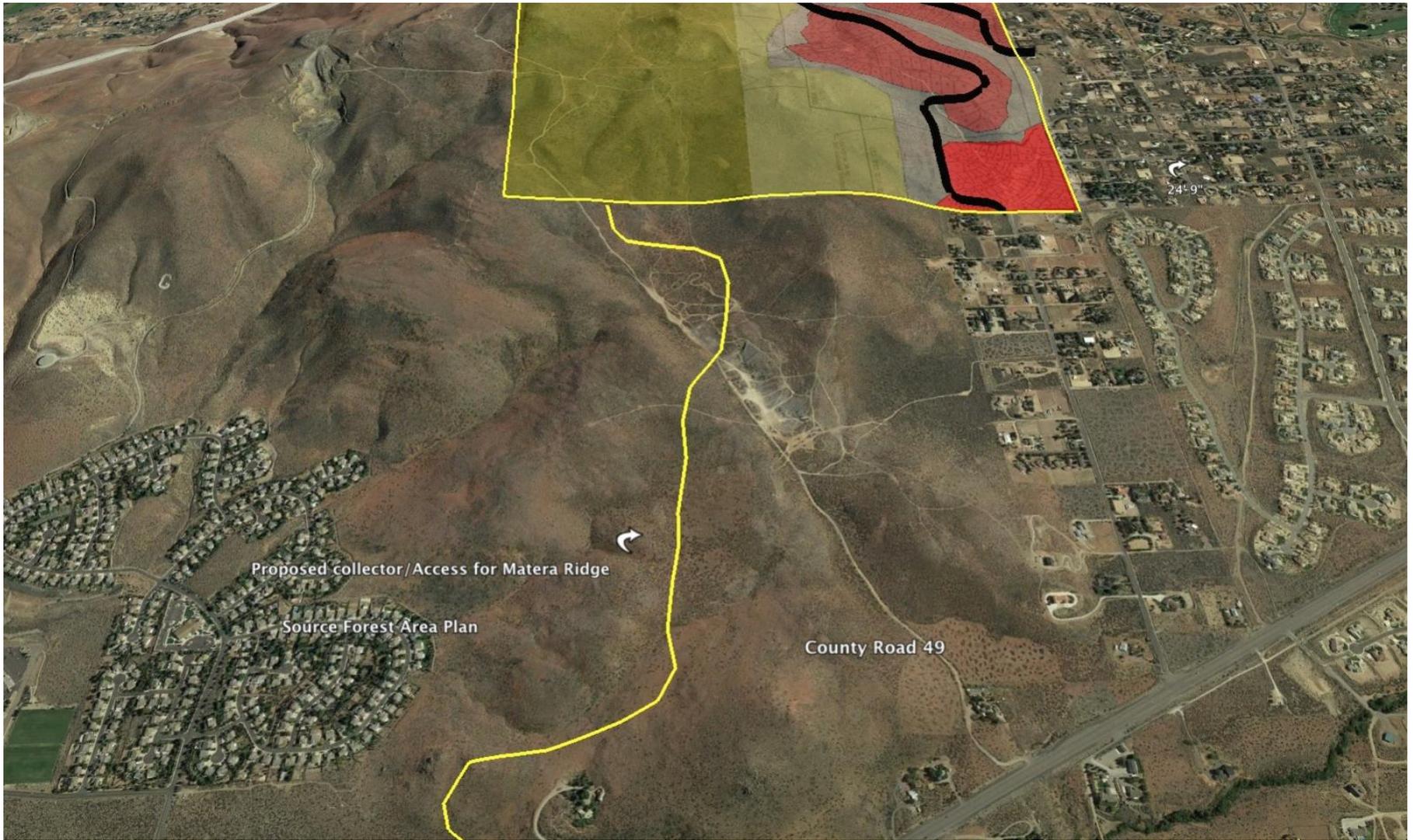
# A Flawed Traffic Study

Where you put traffic counters generates very different traffic results and conclusions.

Ascente's Traffic Study underestimates traffic on Cherrywood and is flawed.

<b>Segment</b>	<b>Daily Volume</b>
Tannerwood Dr	514
Cherrywood Dr	168

Traffic Works Study: Table 4



**Yellow line shows access to development from Thomas Creek Road. This would be suitable for a haul road.**

## NDOT Review of proposal; Jae Pullen, 10/21/2016

“Report does not include full build-out of development. Each phase should include traffic mitigation strategies and recommendations.”

“There is currently a signal at the intersection of Mt. Rose and Thomas Creek Road. There is no south approach leg. Is there a way the developer can construct a phase further east that would tie into the Thomas Creek Road intersection instead of the proposed Phase 1? This would be a beneficial improvement. Ascenté development traffic would utilize the existing signal and have minimal impact on Callahan Road.”

Original developer of Matera Ridge, Hugh Hemple, received special zoning in the Matera Ridge Plan based on **implied access** from the proposed collector at stop light on Mount Rose Hwy at **Thomas Creek Rd**

**Mr. Hempel said “access to his property from a signaled intersection at Thomas Creek was much preferred to the Fawn Lane intersection.”**

**We believe that the Matera project was approved with this access in mind.**

**BOARD OF COUNTY COMMISSIONERS, WASHOE COUNTY, NEVADA TUESDAY PRESENT:**

10:00 A.M.

David Humke, Chairman Bonnie Weber, Vice Chairperson John Breternitz, Commissioner Bob Larkin,  
Commissioner Kitty Jung, Commissioner  
Amy Harvey, County Clerk Katy Simon, County Manager Melanie Foster, Legal Counsel

**JULY 14, 2009**

Add Tioga and Whitney traffic to Phase-2



## Shawna Lane facing East: no planned improvement

- No sidewalks
- Open drainage ditches
- No streetlights
- Narrow: 24ft wide roadway



# Callahan Road configured as a collector

EQUESTRIAN PATH



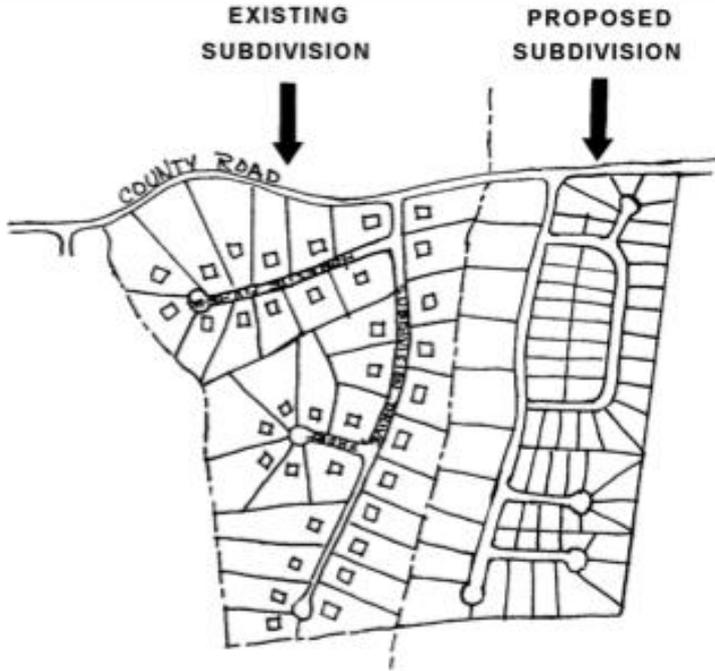
COVERED DRAIN



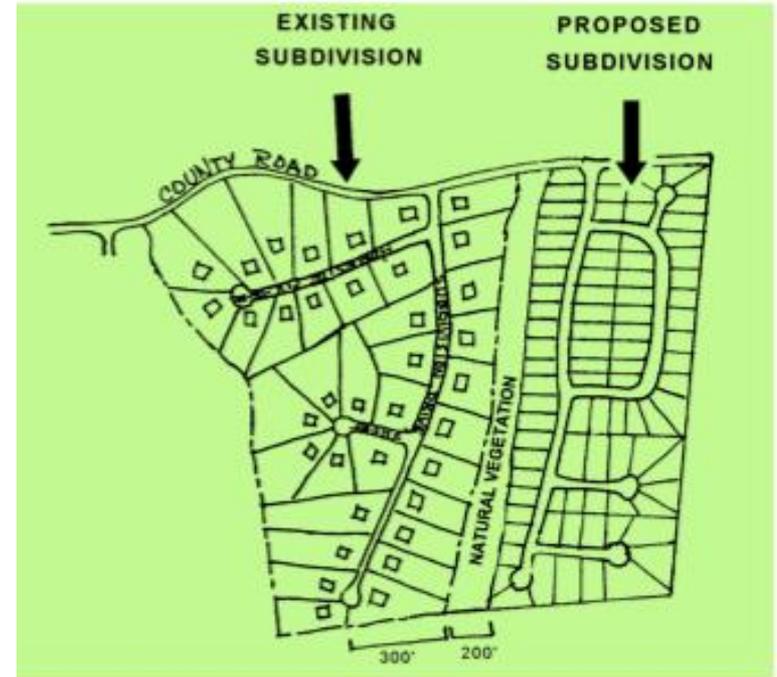
SIDEWALK



## Lot Matching, 110.434.25.1



## Buffering, 110.434.25.2



- The impact of development on adjacent land uses will be mitigated. The appropriate form of mitigation may include, but will not be limited to, open space buffering or parcel matching and should be determined through a process of community consultation and cooperation. Applicants shall be prepared to demonstrate how the project conforms to this policy.



# EXTENSIVE NOISE POLLUTION

Heavy Machines  
and

**Blasting**

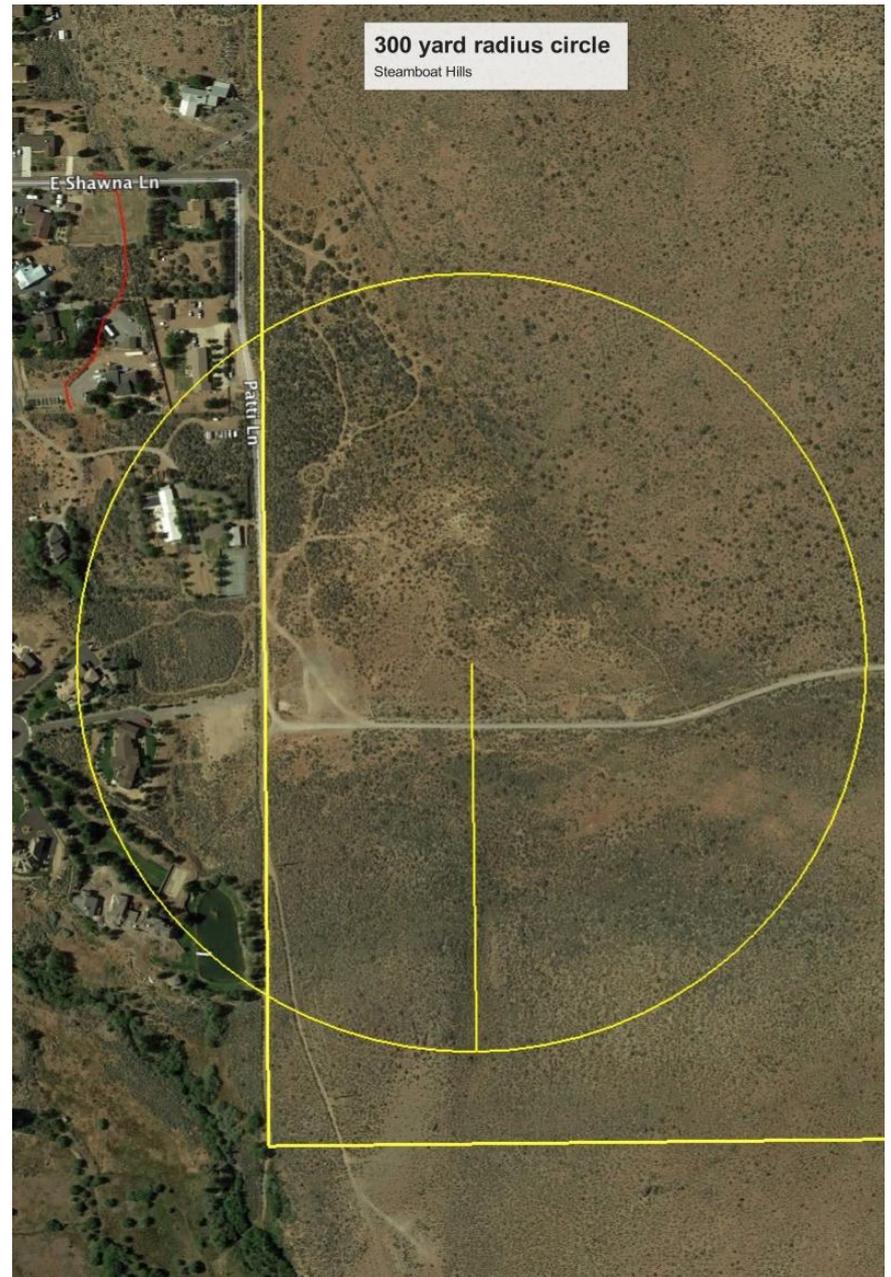
would be

**300 yards**

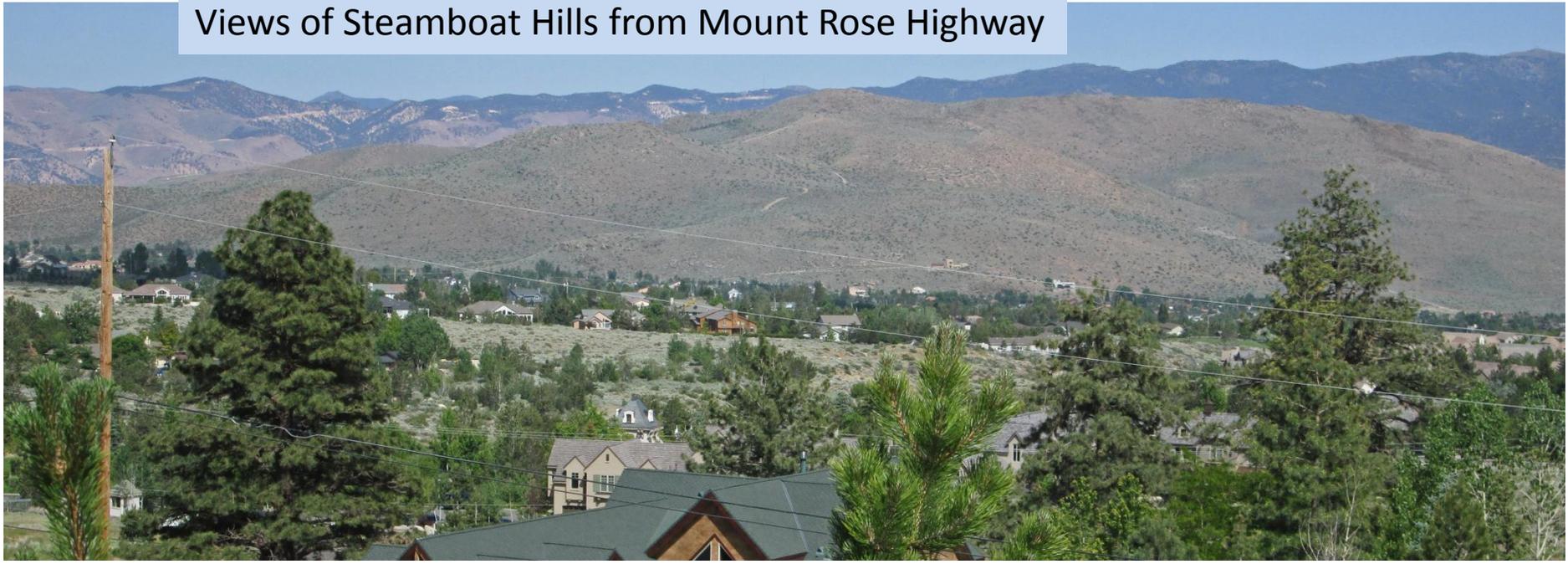
or less

from existing homes

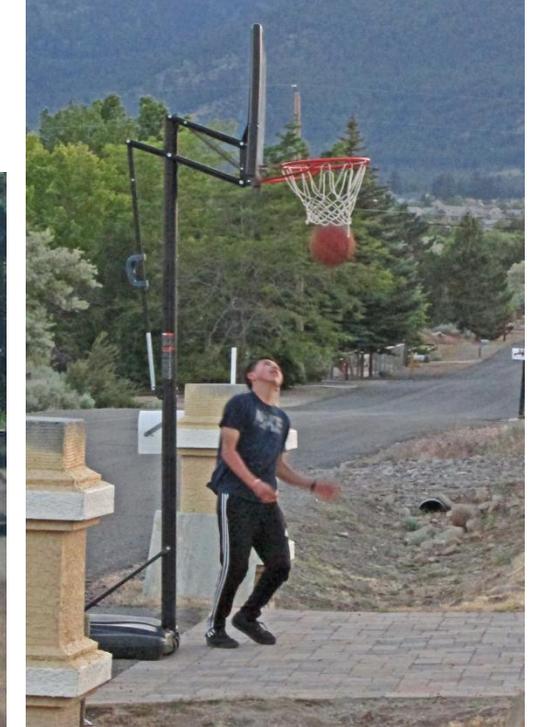
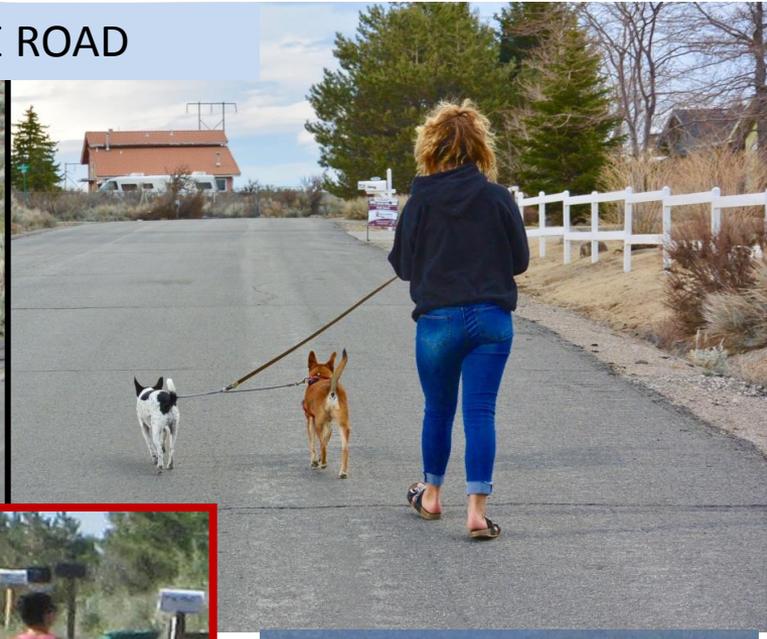
beep!  
beep!  
beep!



# Views of Steamboat Hills from Mount Rose Highway



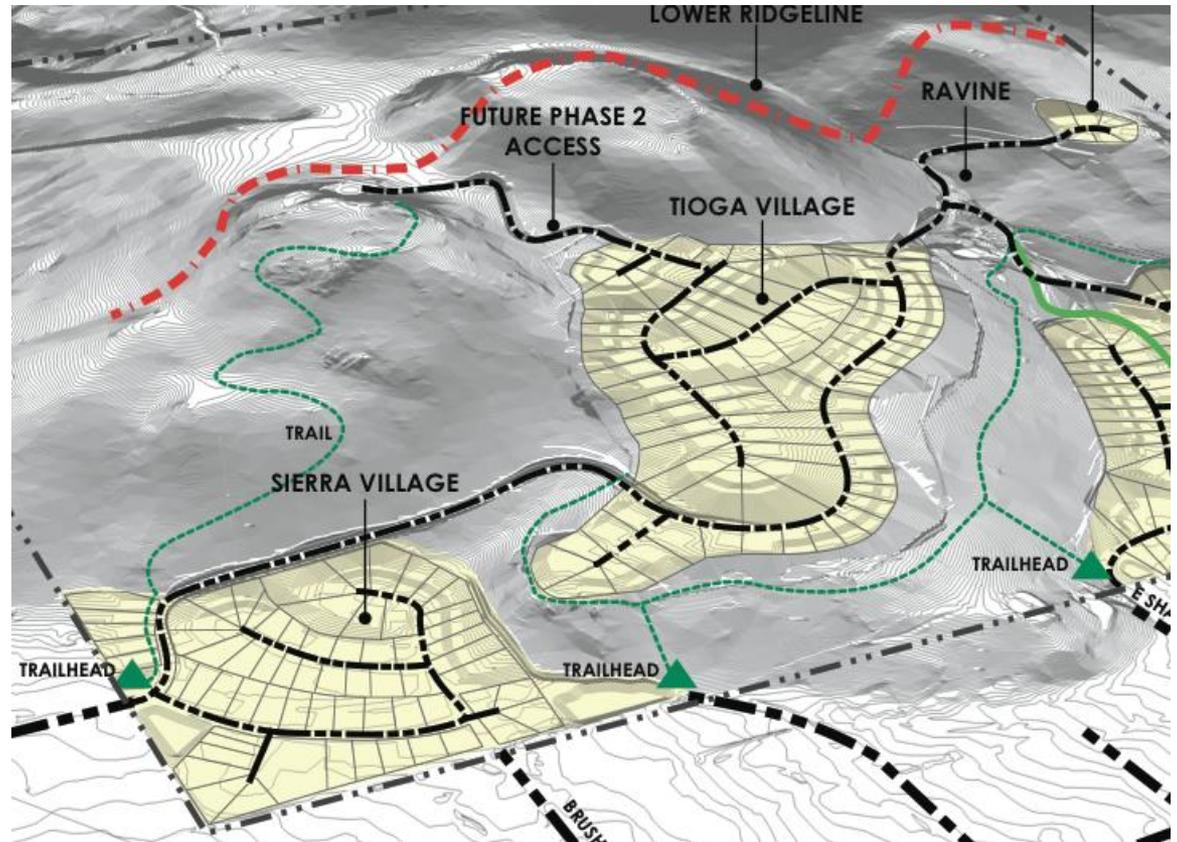
# COMMUNITY MEETS AND PLAYS IN THE ROAD



# We Become a Community On Our Roads



Trailheads identified in original Ascente tentative map approval.

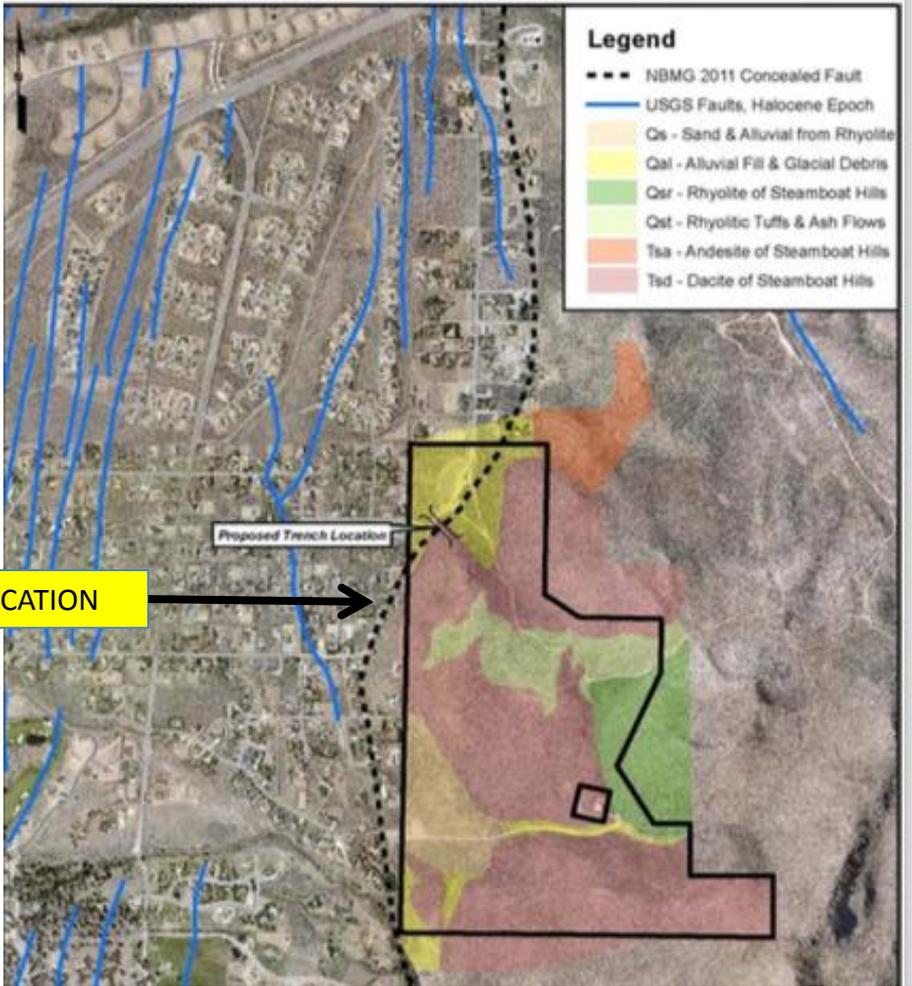


Trailhead parking would not be needed if the trails extend into the neighborhood over covered drainage.

Alternately, parking could be provided that would incorporate a school bus stop and provide for fire truck access.

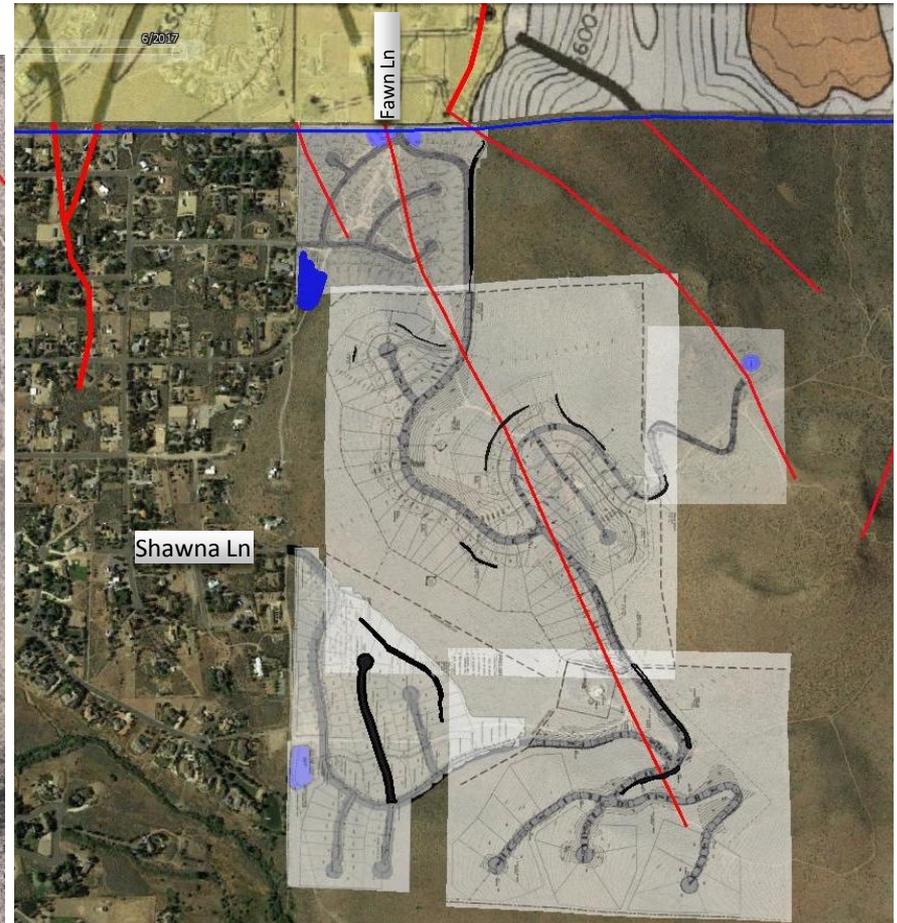
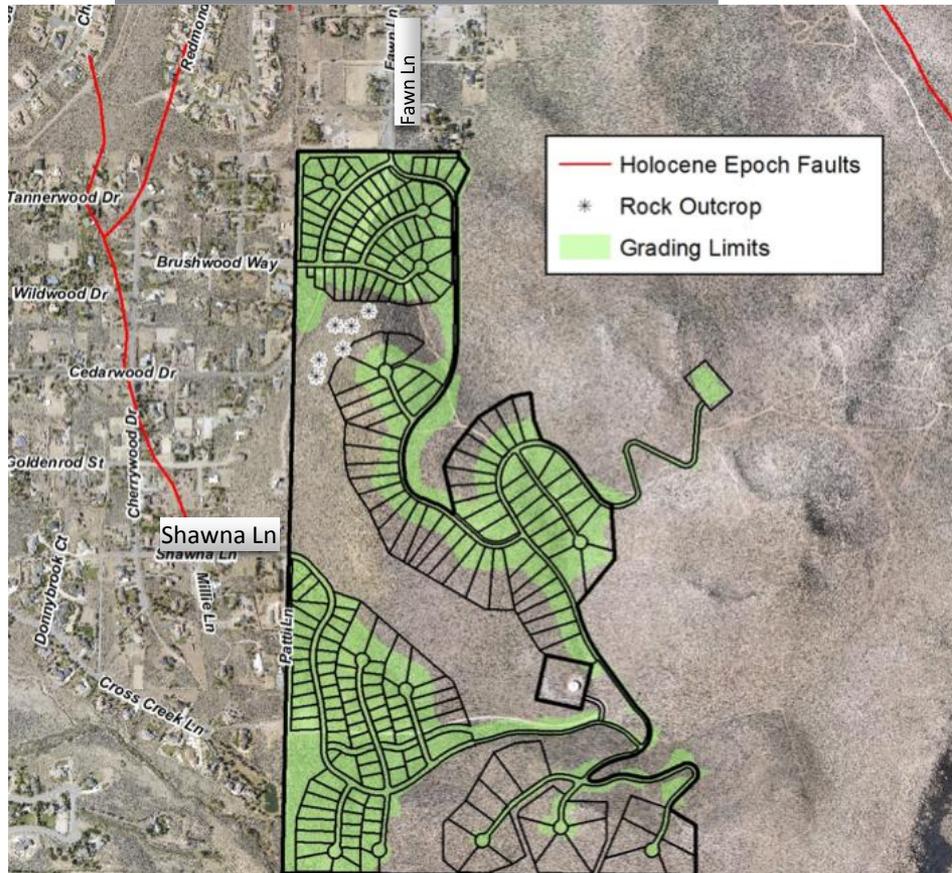
# Proposed single trench is inadequate to ground-truth faults

PROPOSED TRENCH LOCATION



# Area Faults

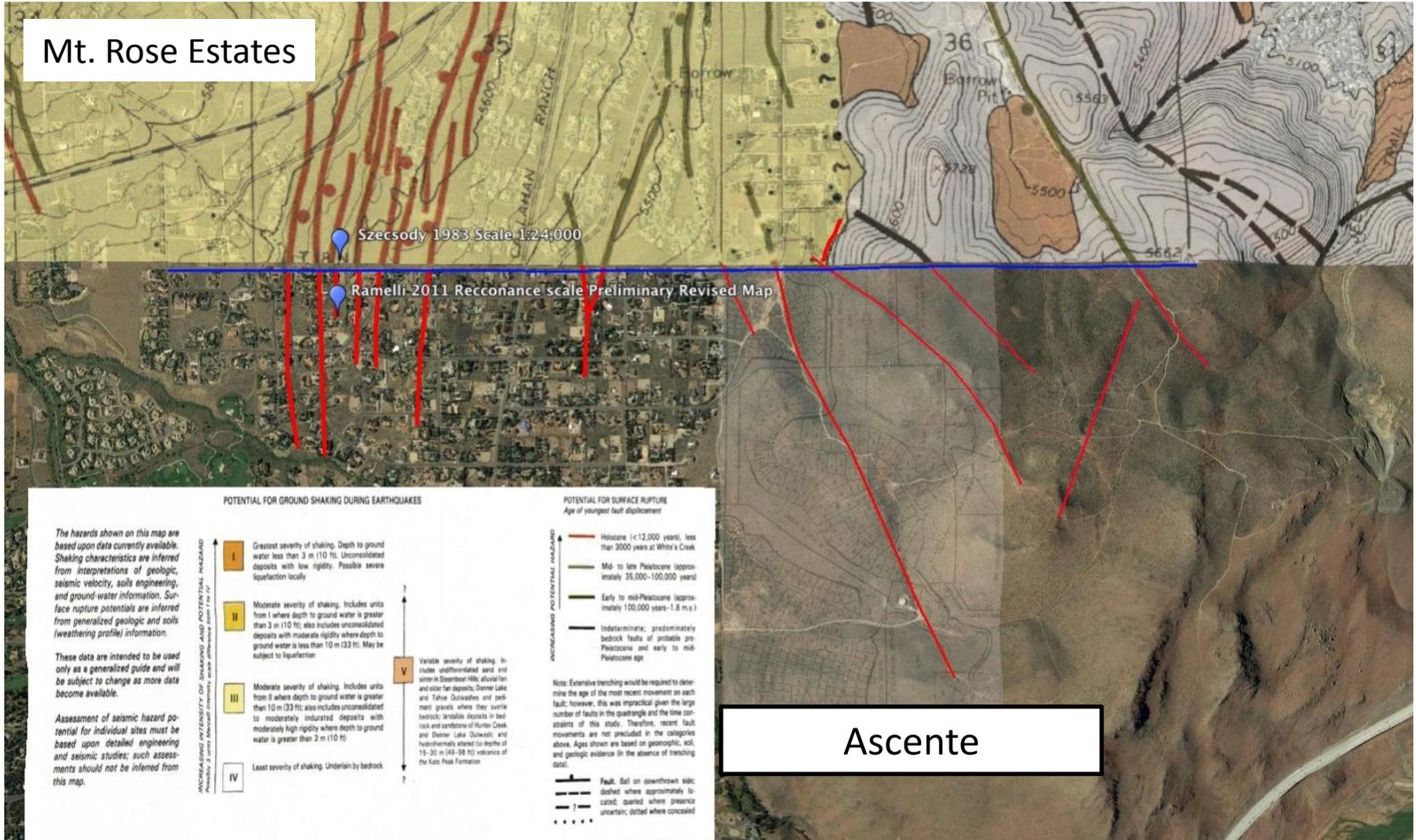
## Preliminary Geologic Conditions



**Preliminary Map from Exhibit J (CFA) (left) alongside Nevada Geologists' Mapped and Inferred Faults from Washoe County Geology Map Published in 2013**

# Area Faults

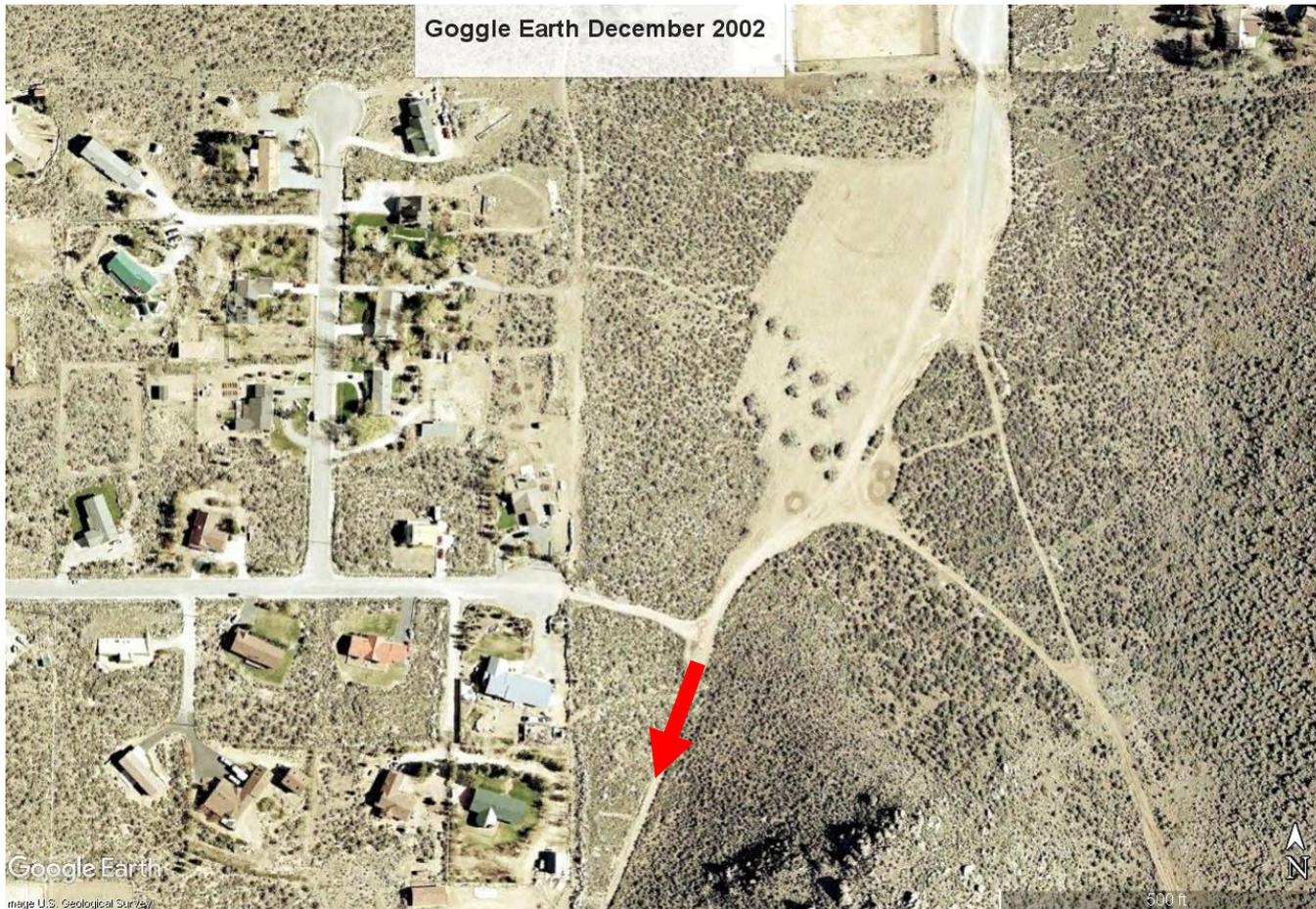
Mt. Rose Estates



Ascente

Continuation of known mapped faults south of detailed Geologic Hazard Map (Szecody, 1983)

Illegal vegetation removal and soil compaction (grading) in 2002 created storm water runoff from the area of the proposed Sierra Village



# Ascente's floodwater "Overflow Path" south of Shawna Lane



H-Flume used to measure discharge that flows from Ascente's property.



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held on August 8, 2017

by Chair Bob Lucey

for Agenda Item No. 28

and included here pursuant to NRS 241.020(7) as amended by AB65 of the 2013 Legislative Session.



**Christopher J. Hicks**  
District Attorney

P.O. Box 11130  
Reno, Nevada 89520

775.328.3200  
washoecounty.us/da

August 7, 2017

Commissioner Bob Lucey  
1001 E. 9th Street  
Reno, Nevada 89512

Re: Ascente Project—disclosure and abstention

Dear Commissioner Lucey:

I am writing to confirm in writing our discussions about your participation as a member of the Board of County Commissioners in the appeal of the Planning Commission's approval of the Ascente project in the vicinity of the Mt. Rose Highway.

You explained that Nick Vander Poel previously served and is serving again as your paid campaign manager. You also described Mr. Vander Poel as a close personal friend with whom you spend considerable time and in whom you regularly confide. Mr. Vander Poel is currently a paid consultant to the Ascente project. The Board of County Commissioners is scheduled to hear an appeal by opponents of the Ascente project who are seeking to overturn the Washoe County Planning Commission's approval of a tentative subdivision map for the Ascente project. The Board of County Commissioners is authorized by State law and Washoe County Code to uphold the approval, reverse the approval or modify the approval. You are concerned about the application of the Nevada Ethics in Government Law and whether you must disclose your relationship with Mr. Vander Poel and whether you are barred from voting on or advocating for or against the Ascente appeal. In my opinion the facts you recited create a disqualifying conflict of interest that bars your participation in the Board's consideration of the Ascente project.

NRS 281A.420 is Nevada's conflict of interest law for public officials and it applies to county commissioners. Sometimes the law requires only a disclosure of a relationship or commitment, but when the independence of judgment of a reasonable person in the public officer's situation would be materially affected by certain commitments or relationships, the public officer is barred from voting on or advocating the passage or failure of a matter. NRS 281A.420(3). The "reasonable person standard" is used in applying the statute. *Carrigan v. Comm'n on Ethics of State*, 129 Nev. Adv. Op. 95, 313 P.3d 880, 882 (2013). That means regardless of the subjective belief of a public official that he or she is unbiased, what matters is whether a reasonable person in the position of the public official would be affected by the commitments or relationships the public officer has to someone else.

BCC 8-8-17 #28  
Chair Lucey

A "commitment in a private capacity" is a defined term under the Nevada Ethics in Government Law and includes "a substantial and continuing business relationship", and a commitment, interest or relationship of a public officer that is substantially similar to a commitment, interest or relationship with the officer's spouse, member of the household, or family (blood or marriage). Your relationship with Mr. Vander Poel touches both of those elements of the definition of "commitment in a private capacity". Your relationship with Mr. Vander Poel through your past and current election campaigns was and is a "substantial and continuing business relationship." Even though you have not yet filed for re-election as county commissioner, you and Mr. Vander Poel have already begun working on re-election. And, your friendship with him is likely to also be the kind of relationship that is "substantially similar" to the set of defined relationships which amount to a commitment in a private capacity to the interests of others. You explained that you spend a substantial amount of time with Mr. Vander Poel in social settings and that he is a confidant. In my opinion, a reasonable person serving as a county commissioner on the Ascente matter would be affected by the business and personal relationships you have with Mr. Vander Poel and a legal conflict of interest exists as to the Ascente matter on the upcoming agenda.

In the *Carrigan* case noted above, the court upheld the findings of the Nevada Ethics Commission that a member of the Sparks City Council was disqualified from voting on the approval of a casino project because the councilman's campaign manager and close personal friend was also consulting with and being paid by the casino project applicant. The facts of Carrigan line up very closely with the facts you described and I believe the Ethics Commission or a court reviewing the facts would find that your duty to disclose and abstain is the same as Mr. Carrigan's was.

At the very beginning of the hearing on the Ascente, I recommend that you stop the proceedings and disclose your relationship with Mr. Vander Poel. You should specifically note that Mr. Vander Poel is your past and current campaign manager, your close personal friend and a paid consultant of the Ascente developer on the Ascente project. Then you should announce that after consultation with legal counsel and even though you could endeavor to be impartial, that you are abstaining from voting or advocating on the project and hand control of the meeting to the vice-chair. The law does not require that you step down from the dais or leave the meeting room, but I recommend you do so. That would eliminate any concern that your presence may in some way influence the other commissioners' decision-making. When the Ascente item is concluded, you can join your colleagues on the County Commission.

Sincerely,

CHRISTOPHER J. HICKS  
WASHOE COUNTY DISTRICT ATTORNEY

By   
PAUL A. LIPPARELLI  
ASSISTANT DISTRICT ATTORNEY

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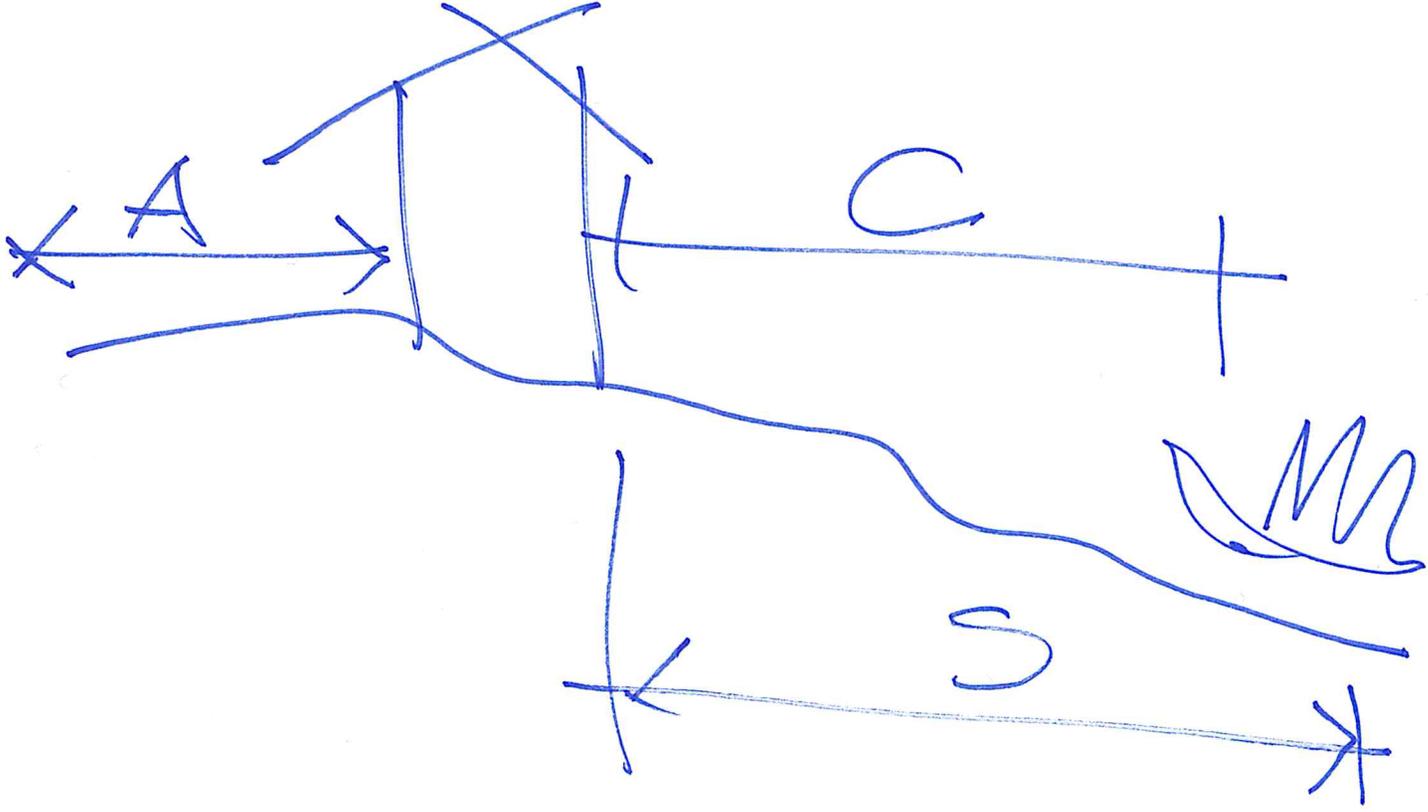
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Chief Moore